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UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

UNITED STATES OF AMERICA

3:16-cr-00105-AA

v.

**GOVERNMENT'S RESPONSE TO
DEFENDANT'S MOTION TO
WITHDRAW GUILTY PLEA**

ROBERT EVANS MAHLER,

Defendant.

Defendant has moved to withdraw his plea of guilty which he entered on September 18, 2018, following the government's presentation of evidence at trial. Defendant argues that he is entitled to withdraw he guilty plea because he was incorrectly advised that his sentence may be lower if he entered his plea before a jury verdict of guilty, and because the government did not allege, nor did defendant admit, that he knew of his status as a person previously convicted of an offense punishable by more than a year in prison, pursuant to *United States v. Rehaif*, 139 S.Ct. 2191 (2019).

The government has reviewed defendant's motion and the attachments. With respect to the first allegation, the government is without sufficient information to adequately respond to defendant's argument that the advice he received prior to entering his plea was either insufficient or inaccurate.

The government, however, concedes that the government did not allege, nor did defendant admit, that he knew of his status as a person previously convicted of an offense punishable by more than a year in prison, as required by Supreme Court authority. Because of this deficiency, and on this basis, the government has no objection to defendant's withdrawal of his plea of guilty. This Court should allow defendant to do so.

Dated: March 2, 2020

Respectfully submitted,

BILLY J. WILLIAMS
United States Attorney

/s/ Gregory R. Nyhus
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Assistant United States Attorney